

Personnel 10-2

Approved For Release 2002/06/25 : CIA-RDP62-00631R000300090017-3

OGC 8-1182

OGC Has Reviewed

8 JUL 1958

MEMORANDUM FOR: Director of Personnel

SUBJECT: Leave En Route to Home Leave

REFERENCE:

LEGL
25X1

1. Attached is a copy of our reply to a request from the Projects and Procedures Staff regarding the amount of time required by law to be spent in the United States, its territories or possessions, by a home leave traveler. From time to time a traveler expresses the wish to take leave en route at a point outside the United States which may have the result of decreasing the length of his stay inside the United States.

LEGL
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LEGAL
25X1



4. We trust the attached paper will give useful guidance in developing such a policy.

SIGNED

LAWRENCE R. HOUSTON
General Counsel

Att-As Listed in Subject

OGC:LRH:jeb

cc: OGC chrono

Subject-Personnel 10-# 2



Legal



25X1A

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OGC 8-1003a

23 June 1958

MEMORANDUM FOR: Chief, Projects and Procedures Staff,
Office of Personnel

SUBJECT: Interpretation of Section 5a(3)(A) of Public Law 110,
Concerning the Requirements for Home Leave

1. We have received your memorandum of 26 May referring to this Office a question by the Audit Staff concerning leave en route in connection with home leave. The original enquiry stated in part:

"Regulations require that personnel proceeding to ZI on home leave and returning to their overseas post must have a minimum of 23 days accrued annual leave in order to be eligible for reimbursement of home leave travel costs. The case in question concerns a staff employee who wishes to spend three calendar weeks (15 days) in ZI and approximately two weeks in Europe on her return trip enroute to the Station. Specifically, is it necessary for a home leave traveler to spend the entire 23 days, required by regulations, in ZI or may part of the required days be used as leave enroute?"

2. We find no reference in the regulations to a 23-day period. [redacted] paragraph 5a(2)(c) states: "[The employee] must have to his credit, at the time his travel begins, sufficient accrued and accumulated annual leave to carry him in a pay status while in the United States for at least a 30-day period."

3. This proviso did not appear in the Act as originally submitted. In commenting on the original submission the Comptroller General advised the Bureau of the Budget:

"Unlike Foreign Service Officers, no statutory provisions as to leave other than those applicable generally to Government employees . . . have been enacted as to officers or employees of the Central Intelligence Agency, and in order to avoid unnecessary expense in returning to the United States, employees who may be totally without accrued leave or whose stay here would be so brief as not to warrant the expense involved, it might be well to change [the provision in question]."

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6. We now turn to the particular question of leave en route. We cannot say as a matter of law that an employee with sufficient leave to carry him in a pay status for precisely 30 days must spend X number of them in the United States and therefore be limited to Y number of days leave en route. We say that the purpose of the order must be the purpose authorized by the statute: Home leave. Whether leave en route home would evidence an abuse of the authority granted by Congress would depend upon the facts of each case. Determination of this would ordinarily be an

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administrative function. Thus, an employee may spend 15 days en route and 15 days home, and the Agency, as a matter of policy, might approve; we would voice no legal objection to such a policy. But obviously 29 days en route and one day home would be the kind of unlawful abuse to which we have referred. The legal standard we apply here is that the period of time spent in the United States must, in the light of all the facts, be reasonable and substantial.

7. This question will undoubtedly recur from time to time and therefore we recommend that you draw it to the attention of the appropriate policy making officials. A regulatory provision on this subject would seem desirable. We should be happy to assist in the preparation of such an issuance or in the formulation of the policy to be expressed in it.

131


Office of General Counsel

25X1A

OGC:HRC:jem

Orig & 1 - Addressee

1 - Subject *-Personnel 10-2*

1 - Signer

1 - Chrono

1 - Legal

1 - Vital

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STATINTL

GAO-06C-Peter
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STATINTL

COMPTROLLER GENERAL OF THE UNITED STATES
Washington 25, D. C.

Res
Called 4/13 +
Still [] wants
action on this.

March 12, 1948

W-74485

The Director,
Bureau of the Budget.

My dear Mr. Webb:

Comments on CIA Act draft bill

"...Sections 4 and 5 are patterned closely to the provisions of the Foreign Service Act of 1946, 60 Stat. 999, and appear free from objection except insofar as relates to the ordering to the United States, on statutory leave, citizen officers and employees of the Agency upon completion of two years' service abroad and the payment of expenses connected therewith. Unlike foreign service officers, no statutory provisions as to leave other than those applicable generally to Government employees as set forth in 5 U.S.C. 30, 30a, and 30b have been enacted as to officers or employees of the Central Intelligence Agency, and in order to avoid unnecessary expense in returning to the United States, employees who may be totally without accrued leave or whose stay here would be so brief as not to warrant the expense involved, it might be well to change section 5(a) 2 to read somewhat as follows:

'Order to continental United States on leave provided for in 5 U.S.C. 30, 30a, 30b, or as such sections may hereafter be amended every officer and employee of the Agency who is a citizen of the United States, upon completion of two years' continuous service abroad, or as soon as possible thereafter, provided that such officer

or employee has accrued to his credit at the time of such order,
annual leave sufficient to carry him in a pay status while in the
United States for at least 30 days.'"

Public Law 110, 81st Congress, 1st Session

Travel, Allowances, and Related Expenses

"Sec. 5. (a) Under such regulations as the Director may prescribe, the Agency, with respect to its officers and employees assigned to permanent-duty stations outside the continental United States, its territories, and possessions, shall --

"(3) (A) Order to the United States or its Territories and possessions on leave provided for in 5 U.S.C. 30, 30a, 30b, or as such sections may hereafter be amended, every officer and employee of the agency who was a resident of the United States or its Territories and possessions at time of employment, upon completion of two years' continuous service abroad, or as soon as possible thereafter: PROVIDED, That such officer or employee has accrued to his credit at the time of such order, annual leave sufficient to carry him in a pay status while in the United States for at least a thirty-day period."

Public 724, 79th Congress, 2d Session

Ordering Return of Personnel to United States on Leaves of Absence

"Sec. 933. (a) The Secretary shall order to the continental United States on statutory leave of absence every officer and employee of the Service who is a citizen of the United States upon completion of two years' continuous service abroad or as soon as possible thereafter.

"(b) While in the continental United States on leave, the service of any officer or employee shall be available for such work or duties in the Department or elsewhere as the Secretary may prescribe, but the time of such work or duties shall not be counted as leave."

COMMENT

"Section 933 corresponds to the provisions of existing law, except that the Secretary may order an officer or an employee of the Service to return to the United States after 2 years abroad instead of 3, as now provided. Such a change is consistent with one of the prime objectives of the act, which is to insure that the officers and employees of the Service shall return more often to the United States to renew touch with the American way of life and so become better representatives of this country abroad. Moreover, experience abundantly shows that personnel stationed at tropical or unhealthful posts should be granted home leave after 2 rather than 3 years. Thus the British, for example, provide home leave for their personnel after 18 months at such posts."

5/4/48
House Report No. 1653, 80th Congress, 2d Session; To accompany H.R. 5871

"In addition, an amendment was added which requires that any Agency employee or officer have to his credit at the time he is ordered to the United States on leave, accrued annual leave sufficient to carry him in a pay status while in the United States for at least a 30-day period. This will avoid any unnecessary expense in returning to the United States employees who might be totally without accrued leave or whose leave in the United States would be so brief as not to warrant the expenses involved. The original language did not make this provision."

2/24/49
House Report No. 160, 81st Congress, 1st Session; To accompany H.R. 2663

"Subsection 5 (a) (3) (A), as amended, authorizes the granting of statutory leave in the United States or its Territories and possessions after 2 years of foreign service.

"Subsection 5 (a) (3) (B) provides that an employee while in this country on leave may be assigned to temporary duty in the United States for special purposes or reorientation prior to returning to foreign service."

Amended
Senate Report No. 1302, 80th Congress, 2d Session, May 17, 1948; To
accompany S.2688

"Hon. Chan Gurney,
Chairman, Committee on Armed Services
United States Senate, Washington 25, D.C.

"Dear Mr. Chairman: There is submitted herewith the draft of a proposed bill to provide for the administration of the Central Intelligence Agency, established pursuant to section 102, National Security Act of 1947, and for other purposes.

"The primary purpose of this legislation is to provide authorities necessary for the administration of the Central Intelligence Agency. The basic provisions cover the Agency's problems of procurement: travel, allowances, and related expenses; general authorities; and appropriations language.

"Inasmuch as the Central Intelligence Agency is concerned with the coordination and production of foreign intelligence pertaining to the national security, there will be frequent need for overseas travel, occasional overseas assignment and, in certain cases, the establishment of overseas posts. In the light of our desire that employment in the Central Intelligence Agency be regarded as a career service, it is felt that the Agency has a problem similar to that faced by the Foreign Service in the assignment of personnel to duty abroad, and authorities similar to those granted in the Foreign Service Act of 1946 are necessary to the development of an intelligence career staff (sec.5).

"R.H. Hillenkoetter,
Rear Admiral, United States Navy,
Director of Central Intelligence"

SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM
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UNCLASSIFIED CONFIDENTIAL SECRET

CENTRAL INTELLIGENCE AGENCY
OFFICIAL ROUTING SLIP

TO	NAME AND ADDRESS	INITIALS	DATE
1	Office of General Counsel		
2	221 East Building		
3			
4			
5			
6			

ACTION	DIRECT REPLY	PREPARE REPLY
APPROVAL	DISPATCH	RECOMMENDATION
COMMENT	FILE	RETURN
CONCURRENCE	INFORMATION	SIGNATURE

Remarks:

Appendix B-3

FOLD HERE TO RETURN TO SENDER

FROM: NAME, ADDRESS AND PHONE NO.	DATE
Chief, Projects and Procedures Staff	5/26/58
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